



INFORMATION SHEET

50 GUN EXEMPTION TO THE FIREARMS AND AMMUNITION EXCISE TAX (FAET)

AMENDMENT TO THE PROVISIONS OF 26 U.S.C. 4182

To: Manufacturers, producers and importers of firearms

What is the purpose of this information sheet?

This information sheet announces the recently enacted amendment to section 4182 of the Internal Revenue Code of 1986 (IRC), 26 U.S.C. 4182, to provide an exemption from the firearms and ammunition excise tax (FAET) for any pistol, revolver, or firearm (article) if it was manufactured, produced, or imported by a person who manufactures, produces, or imports less than an aggregate of 50 of such articles during a calendar year.

What is the authority for this FAET exemption?

Section 4181 of the IRC (26 U.S.C. 4181) imposes an excise tax on the sale or taxable use of firearms, shells and cartridges by a manufacturer, producer, or importer of these articles. Section 4182 of the IRC provides for certain exemptions from this tax. Prior to October 1, 2005, only sales to the Department of Defense and Coast Guard (where the purchase is made with funds appropriated for the military department) and transactions where the National Firearms Act Transfer Tax (26 U.S.C. 5811) has been paid were exempt from the tax.

Recently, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59, 119 Stat. 1144). This act amends section 4182 of the IRC by adding a provision that exempts from the tax any pistol, revolver, or firearm if it was manufactured, produced, or imported by a person who manufactures, produces, or imports less than an aggregate of 50 of such articles during the calendar year.

Who qualifies for this exemption?

Whether a manufacturer, importer, or producer qualifies for this exemption is determined by the number of firearms manufactured, produced and imported on a calendar year basis (January 1 – December 31).

For example, if “Company A” manufactures 20 firearms in a calendar year, no FAET is due upon the sale or taxable use of those 20 firearms.

However, if “Company A” manufactures 55 firearms in a calendar year, then FAET is due upon the sale or taxable use of any of those 55 firearms.

The amendment also provides that all persons who are a part of a controlled group under 26 U.S.C. 1563 will be treated as one taxpayer for purposes of this exemption.

It should be noted that this amendment does not apply to shells and cartridges.

When is this change effective?

The new exemption went into effect on October 1, 2005. Since FAET is paid quarterly, this corresponded to the beginning of the new tax quarter (October 1 through December 31, 2005).

Further, this exemption has prospective application in that it has no effect on the tax liability of a manufacturer, producer, or importer prior to October 1, 2005.

If I manufacture, produce, or import 50 or more firearms during the calendar year, would I be liable for FAET on the first 49 firearms, as well as all subsequent firearms manufactured, produced, or imported for the remainder of the calendar year (even though I did not collect or pay the tax to the Alcohol and Tobacco Tax and Trade Bureau (TTB))?

Yes, you would owe TTB the FAET on the first 49 firearms that you sold or put to a taxable use whether or not you collected the tax from your customers upon the sale or taxable use of these firearms. This is due to the fact that the exemption applies only if you manufacture, produce, or import less than an aggregate of 50 firearms during the calendar year.

Consequently, you would owe FAET on the first 49 firearms sold or put to a taxable use, as well as on all subsequent firearms manufactured, produced, or imported for the remainder of the calendar year, regardless of when they are sold or put to a taxable use. Each calendar year stands alone for purposes of applying the 50 firearms exemption rule.

If I manufacture, produce, or import less than 50 firearms during the calendar year, would I be liable for FAET on those firearms if I sold them in another calendar year?

No, you would not owe FAET on less than 50 firearms manufactured, produced, or imported during a calendar year regardless of when you sell them.

For example, say “Company B” manufactures 20 firearms in calendar year 2006 but does not sell any of them in calendar year 2006. “Company B” then manufactures 40 firearms in calendar year 2007 and sells all 60 firearms (the 20 manufactured in 2006 plus the 40 manufactured in 2007) in 2007. “Company B” would not owe tax on the 60 firearms sold in 2007 since “Company B” only manufactured 20 of those firearms in calendar year 2006 and the other 40 in calendar year 2007. Once again, each calendar year stands alone.

Exemptions at a glance.

Exemptions from Federal Firearms and Ammunition Excise Taxes (FAET)		
Type of Exemption	26 U.S.C. 4182 <i>(Before October 1, 2005)</i>	26 U.S.C. 4182 <i>(After October 1, 2005)</i>
26 U.S.C. 4182(a) Transactions where the National Firearms Act (NFA) Transfer Tax has been paid.	Are exempt from FAET	Are exempt from FAET
26 U.S.C. 4182(b) Firearms, shells and cartridges sold to the Department of Defense and Coast Guard (purchased with funds appropriated for the military department).	Are exempt from FAET	Are exempt from FAET

<p>26 U.S.C. 4182(c)</p> <p>Any pistol, revolver, or firearm (but not shells or cartridges) if it was manufactured, produced, or imported by a person who manufactures, produces, or imports less than an aggregate of 50 of such articles during the calendar year.</p>	<p>Is NOT exempt from FAET</p>	<p>Is exempt from FAET</p>
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Whom do I contact if I have questions about this exemption?

If you have any questions regarding FAET exemptions, please contact:

Alcohol and Tobacco Tax and Trade Bureau
National Revenue Center
Firearms and Ammunition Excise Tax (FAET) Group
8002 Federal Office Building
550 Main Street
Cincinnati, OH 45202-5215

Toll-free telephone number: 1-877-882-3277
Direct telephone number: (513) 684-3817
Fax Number: (513) 684-2252
E-mail: ttbfaet@ttb.treas.gov